



US Army Corps
of Engineers®

SAN FRANCISCO DISTRICT

PUBLIC NOTICE

NUMBER: 400304S

DATE: 29 January 2007

RESPONSE REQUIRED BY: 28 February 2007

Regulatory Branch

333 Market Street

San Francisco, CA 94105-2197

PROJECT MANAGER: Bob Smith

Phone: (415) 977-8450/E-mail: robert.f.smith@usace.army.mil

1. INTRODUCTION: The U.S. Army Corps of Engineers is proposing to reauthorize for a period of five years Department of the Army Regional Permit No. 4 for the maintenance of existing water circulation ditches and channels for the purpose of mosquito abatement in tidal marshes. The California Department of Health Services, Vector-Borne Disease Section, 1616 Capitol Avenue, Sacramento, California (contact: Stan Husted, [510] 412-6253) is acting as a sponsor for the permit for the County Mosquito and Vector Control Agencies of Alameda, Contra Costa, Napa, Marin, Solano, San Mateo, Santa Cruz, and Sonoma Counties. This application is being processed pursuant to the provisions of Section 404 of the Clean Water Act (33 U.S.C. 1344) and Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403)

2. PROJECT DESCRIPTION: The purpose of maintaining the ditches and channels is to provide for the tidal circulation of water in ponded areas to eliminate mosquito larvae. The ditches are designed to increase tidal circulation through shallow connectors between natural tidal channels and ponds where mosquito breeding occurs. This method protects the public health and safety while minimizing intrusion and the need for pesticide applications in biologically sensitive areas. The maintenance is carried out only in areas in which mosquito breeding has been documented.

The work is necessary to carry out the responsibilities of the Mosquito and Vector Control Agencies pursuant to the California Health and Safety Code, Sections 402, et seq., and 2200, et seq. The work is carried out under a written cooperative agreement administered by the California Department of Health Services, Vector-Born Disease Section.

The following activities would be authorized under the permit:

1. Maintenance (but not construction) of currently serviceable water circulation ditches. Maintenance does not include any modification that changes the character, scope, or size of the original ditch design.
2. Sidecasting of fill incidental to the removal of debris, weeds, and emergent vegetation in natural channels where normal water circulation is impeded such that mosquito breeding can occur.
3. Filling of existing, nonfunctional water circulation ditches to the extent necessary to achieve the required water circulation dynamics and restore ditched wetlands.

The following conditions will apply to the permit:

General conditions:

1. No activity is authorized under this regional permit which is likely to jeopardize the continued existence of a threatened or endangered species or a species proposed for such designation, as identified under the Federal Endangered Species Act, or which is likely to destroy or adversely modify the critical habitat of such species. Non-federal permittees shall notify the District Engineer if any listed species or critical habitat might be affected or is in the vicinity of the project, and shall not begin work on the activity until notified by the District Engineer that the requirements of the Endangered Species Act have been satisfied and that the activity is authorized. If the District Engineer does not respond within 30 days, approval is implied. Authorization of an activity

by this regional permit does not authorize the take of a threatened or endangered species as defined under the Federal Endangered Species Act. In the absence of separate authorization (e.g., an ESA Section 10 Permit, a Biological Opinion with incidental take provisions, etc.) from the U.S. Fish and Wildlife Service or the National Marine Fisheries Service, both lethal and nonlethal take of protected species are in violation of the Endangered Species Act. Information on the location of threatened and endangered species and their critical habitat can be obtained directly from the offices of the U.S. Fish and Wildlife Service and National Marine Fisheries Service.

2. Equipment. Staging areas shall be on upland site if available. Heavy equipment working in wetlands must be placed on mats, or other measures must be taken to minimize soil disturbance (e.g., use of low ground pressure vehicles).

3. Aquatic life movements. No activity may substantially disrupt the movement of those species of aquatic life indigenous to the waterbody, including those species which normally migrate through the area, unless the activity's primary purpose is to impound water. In waterbodies which support anadromous fish, work shall be carried out during the period of 1 July through 30 September.

4. Suitable material. No discharge of dredged or fill material may consist of unsuitable material (e.g., trash) and material discharged must be free from toxic pollutants in toxic amounts (see Section 307 of the Clean Water Act).

5. Discharges of dredged or fill material into the Waters of the United States must be minimized or avoided to the maximum extent possible at the project site.

6. Work authorized under this regional permit shall be conducted, whenever possible, during the period of 1 August through 31 January.

7. If any previously unknown historic or archeological remains are discovered during work authorized by this permit, you must immediately notify this office. The Corps will initiate the federal and state coordination necessary to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.

8. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.

9. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of the permit.

Special conditions:

1. No work shall be performed in tidal marshes of San Francisco Bay, San Pablo Bay, and western Suisun Bay (west of Grizzly Bay) between 1 February and 1 September, the breeding season of the California clapper rail. Specific areas of tidal marsh which have been determined in writing by the US FWS to provide no suitable habitat for the California clapper rail may be conditionally excluded from this prohibition.

2. No spoils sidecast adjacent to circulation ditches shall exceed 8 inches in relief above the marsh plain after dewatering. Sidecast spoil lines exceeding 4 inches in height above the marsh plain shall extend no more than 6 feet from the nearest ditch margin. Any spoils in excess of these dimensions shall be either hydraulically

redispersed on site, or removed to designated upland sites, out of Corps jurisdiction. Sidecast spoil lines shall be breached at appropriate intervals to prevent local impediments to water circulation.

3. A work plan for each year's proposed maintenance activities shall be submitted to the Corps, US FWS, and CDFG no later than 1 July of each year. The Corps will provide notification within 30 days if any of the proposed work is determined to have more than minimal adverse impacts, after consideration of any proposed mitigation, and is therefore not authorized by this permit. The work plan shall include a delineation of all proposed ditching overlain on topographic maps at a minimum 1" = 1000' scale, with accompanying vicinity maps. The plan shall also indicate the dominant vegetation of the site, based on subjective estimates; the length and width of the ditches to be maintained, cleared or filled, and; the estimated date the work will be carried out. A report of the actual work done in the previous year shall be included with the work plan.

4. If the review of the proposed work plan by the Corps, US FWS or CDFG determines the proposed maintenance is likely to destroy or damage substantial amounts of shrubby or sub-shrubby vegetation (e.g., coyote brush, gumplant) on old sidecast spoils, the permittee will be notified to provide a quantitative estimate of the extent and quality of the vegetation, and a revegetation plan for the impacted species prepared by a biologist/botanist with expertise in marsh vegetation. The Corps approved revegetation plan shall be implemented prior to April 1 of the year following the impacts.

5. In marshes which contain populations of invasive nonnative vegetation such as *Lepidium latifolium* or introduced species of *spartina*, sidecast spoils shall be surveyed for the

frequency of establishment of these species during the first growing season following the deposition of the spoils. The results of the surveys shall be reported to the Corps, US FWS and CDFG. If it is determined the sidecasting of spoils have resulted in a substantial increase in the distribution or abundance of the nonnative vegetation which is detrimental to the marsh, the permittee shall implement appropriate abatement measures after consultation with the Corps, US FWS and CDFG.

Summary of work conducted in the last 5 years:

Alameda County Mosquito and Vector Control - maintained approximately 33,152 linear feet of ditches.

Contra Costa Mosquito and Vector Control - maintained approximately 23,250 linear feet of ditches.

Marin/Sonoma Mosquito and Vector Control - maintained approximately 25,900 linear feet of ditches.

Napa County Mosquito Abatement District - maintained approximately 5,120 linear feet of ditches.

San Mateo County Mosquito Abatement District - maintained approximately 13,695 linear feet of ditches.

Solano County Mosquito Abatement District - maintained approximately 450 linear feet of ditches.

3. OTHER STATE AND FEDERAL PERMITS:

Water Quality Certification - Under Section 401 of the Clean Water Act (33 U.S.C. Section 1341), an applicant for a Corps permit must first obtain a State

water quality certification before a Corps permit may be issued. No Corps permit will be granted until the applicant obtains the required water quality certification. The Corps may assume a waiver of water quality certification if the State fails or refuses to act on a valid request for certification within 60 days after the receipt of a valid request, unless the District Engineer determines a shorter or longer period is reasonable for the State to act.

Those parties concerned with any water quality issue that may be associated with this project should write to the Executive Officer, California Regional Water Quality Control Board, San Francisco Bay Region, 1515 Clay Street, Suite 1400, Oakland, California 94612 by the close of the comment period of this Public Notice.

4. ENVIRONMENTAL ASSESSMENT: The Corps will assess the environmental impacts of the proposed action in accordance with the requirements of the National Environmental Policy Act of 1969 (42 U.S.C. Section 4371 et. seq.), the Council on Environmental Quality's Regulations (40 C.F.R. Parts 1500-1508), and the Corps' Regulations (33 C.F.R. Part 230 and Part 325, Appendix B). Unless otherwise stated, the Environmental Assessment will describe only the impacts (direct, indirect, and cumulative) resulting from activities within the Corps' jurisdiction. The documents used in the preparation of the Environmental Assessment will be on file with the U.S. Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197.

A Corps of Engineers' archaeologist is currently conducting a cultural resources assessment of the permit area, involving review of published and unpublished data on file with city, State, and Federal agencies. If, based upon assessment results, a field investigation of the permit area is warranted, and cultural properties listed or eligible for listing on the National Register of Historic Places are identified during the inspection, the Corps of Engineers will

coordinate with the State Historic Preservation Officer to take into account any project effects on such properties.

5. EVALUATION OF ALTERNATIVES: Evaluation of the proposed activity's impact will include application of the guidelines promulgated by the Administrator of the Environmental Protection Agency under Section 404(b)(1) of the Clean Water Act (33 U.S.C. Section 1344(b)). An evaluation has been made by this office that the proposed project is water dependent.

6. PUBLIC INTEREST EVALUATION: The decision whether to issue a permit will be based on an evaluation of the probable impact, including cumulative impact, of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefits that reasonably may be expected to accrue from the proposed activity must be balanced against its reasonably foreseeable detriments. All factors that may be relevant to the proposal will be considered, including its cumulative effects. Among those factors are: conservation, economics, aesthetics, general environmental concerns, wetlands, historic properties, fish and wildlife values, flood hazards, floodplain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, considerations of property ownership, and, in general, the needs and welfare of the people.

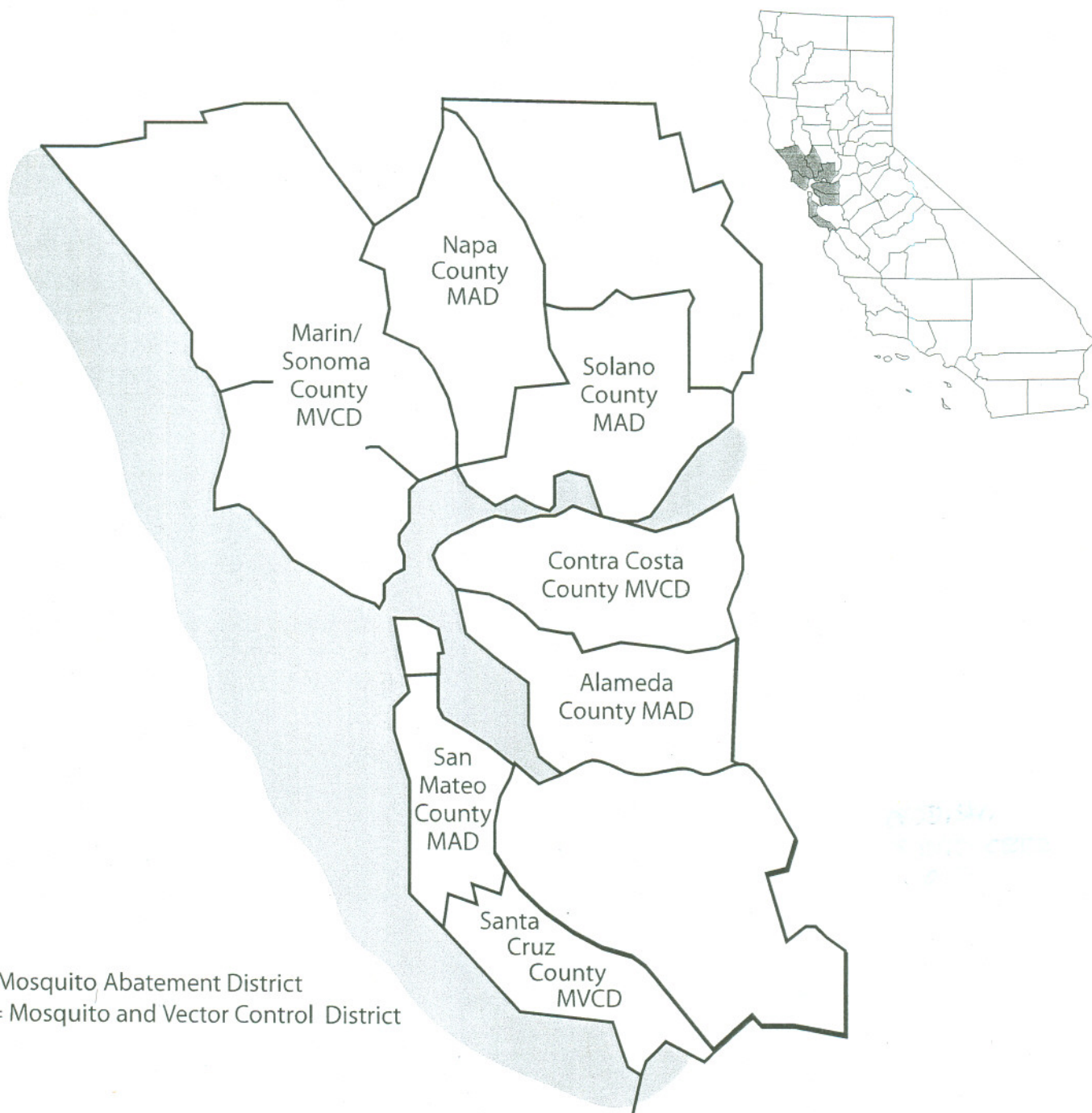
7. CONSIDERATION OF COMMENTS: The Corps of Engineers is soliciting comments from the public, Federal, State and local agencies and officials, Indian Tribes, and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps to determine whether to issue, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on

endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest in the proposed activity.

8. SUBMISSION OF COMMENTS: Interested parties may submit, in writing, any comments concerning this activity. Comments should include the applicant's name and the number and the date of this Public Notice, and should be forwarded so as to reach this office within the comment period specified on Page 1. Comments should be sent to the U.S.

Army Corps of Engineers, San Francisco District, Regulatory Branch, 333 Market Street, San Francisco, California 94105-2197. It is the Corps' policy to forward any such comments that include objections to the applicant for resolution or rebuttal. Any person may also request, in writing, within the comment period of this Public Notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. Additional details may be obtained by contacting the applicant whose name and address are indicated in the first paragraph of this Public Notice or by contacting of our office at telephone 415-977- 8450 or E-mail: robert.f.smith@usace.army.mil. Details on any changes of a minor nature that are made in the final permit action will be provided upon request.

Participating San Francisco Bay Area Mosquito and Vector Control Districts



MAD = Mosquito Abatement District
MVCD = Mosquito and Vector Control District

Purpose:

Habitat enhancement plans
for long-term reduction of
mosquito populations

Coordinating Agency:

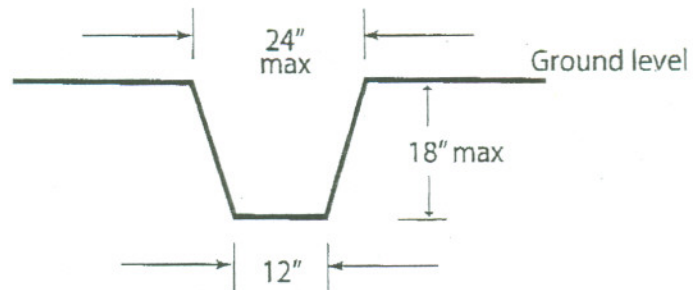
California Dept of Health Services
Vector-Borne Disease Section
850 Marina Bay Parkway
Richmond, CA
1. 510. 412. 6253
Fax 1. 510. 412-6263

Agencies participating in
General Permit # 4

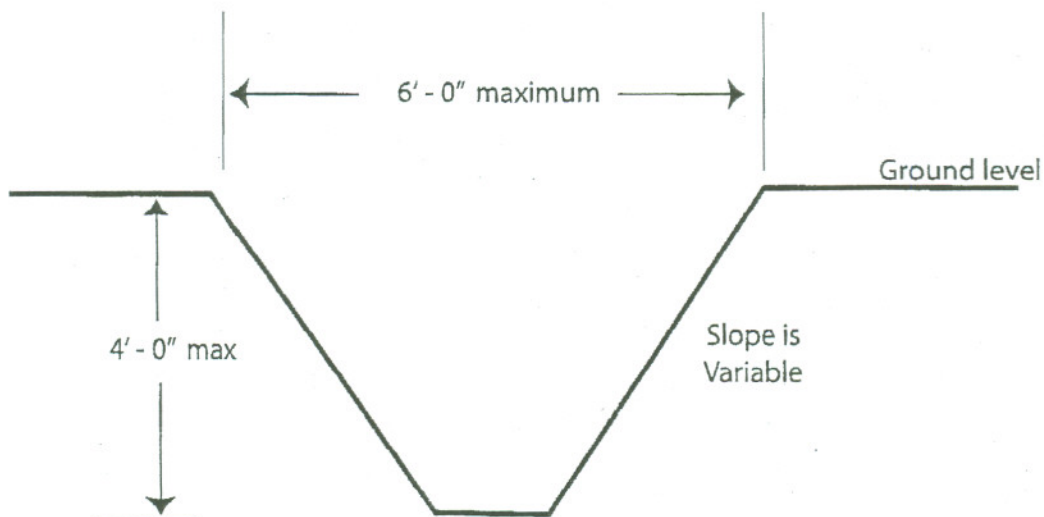
Prepared by Stan Husted
Sheet 1 of 3
December 27, 2006

Typical Water Circulation Ditches

Small Lateral Water Circulation Ditch Configuration



Medium to Large Water Circulation Ditch Configuration



No scale

Purpose:

Habitat enhancement plans
for long-term reduction of
mosquito populations

Coordinating Agency:

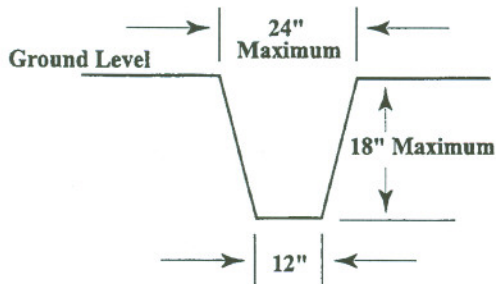
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Typical Water Circulation
Ditches

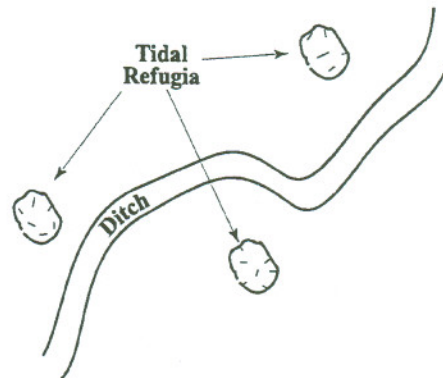
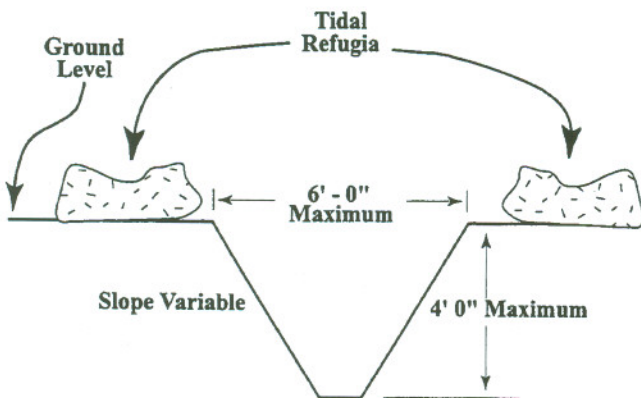
Prepared by Stan Husted
Sheet 2 of 3
December 27, 2006

Typical Water Circulation Ditch

Small (Lateral & Sprite) Water Circulation Ditch Configuration



Medium to Large Water Circulation Ditch Configuration



Purpose:
Habitat enhancement plans
for long-term reduction of
mosquito populations

Coordinating Agency:
California Dept of Health Services
Vector-Borne Disease Section
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Sheet 3 of 3
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